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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,546	11/04/2002	Claire Fraser	PP00365.301	9020

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Intellectual Property R440  
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EXAMINER

DEVI, SARVAMANGALA J N

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/674,546

Applicant(s)

FRASER ET AL.

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 ~~is~~/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **Lack of Unity**

**1)** Claims 1-18 are under prosecution.

Claims 7, 9 and 11 are not included in the grouping below because these claims make no sense. These dependent claims are drawn to a nucleic acid molecule, but improperly depend from a base claim that is drawn to an antibody.

Claims 13-15 are not included in the grouping below because these claims make no sense. The dependent claims 13-14 and 15 are drawn respectively to a 'composition according to claim 11' and the 'use of a composition according to claim 11'. However, claim 11 is not drawn to a composition, but to a nucleic acid.

**2)** This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, Applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 1, 3, 12, 16 and 18, drawn to a protein comprising an at least 7 amino acid-long fragment of from SEQ ID NO: 2790, a protein comprising an amino acid sequence having 50% or greater homology thereto, and a composition comprising the same, classified in class 530, subclass 300.
- II. Claims 2, 4, 12 and 17, drawn to a protein, or a fragment comprising 7 or more consecutive amino acids from an amino acid sequence selected from the group consisting of even numbered SEQ IDs from SEQ ID NO: 2 through SEQ ID NO: 3020 (other than SEQ ID NO: 2790) and a composition comprising the same, classified in class 530, subclass 350.
- III. Claims 5 and 12, drawn to an antibody which binds to a protein comprising an at least 7 amino acid-long fragment of an amino acid sequence from SEQ ID NO: 2790, classified in class 530, subclass 388.4
- IV. Claims 5 and 12, drawn to an antibody which binds to a protein or a fragment comprising 7 or more consecutive amino acids from an amino acid sequence selected from the group consisting of even numbered SEQ IDs from SEQ ID NO: 2 through SEQ ID NO: 3020 (other than SEQ ID NO: 2790), classified in class 530, subclass 388.4

- V. Claims 6, 10 and 12, drawn to a nucleic acid molecule encoding a protein comprising an at least 7 amino acid-long fragment of an amino acid sequence from SEQ ID NO: 2790, classified in class 536, subclass 23.7
- VI. Claims 8 and 12, drawn to a nucleic acid molecule encoding a protein comprising a fragment comprising 10 or more consecutive nucleotides from a nucleotide sequence selected from the group consisting odd numbered SEQ ID numbers from SEQ ID NO: 1 through 3019, classified in class 536, subclass 23.7

3) Inventions I-VI lack unity. The first claimed product, for example of claim 1, is a protein comprising an at least 7 amino acid-long fragment of an amino acid sequence from SEQ ID NO: 2790. However, such a protein was already known in the art at the time of the invention. For example, Barney *et al.* (US 6,060,065, filed 06/06/1995) disclosed a protein comprising the amino acid sequence of SEQ ID NO: 108 which comprises the at least 8 amino acid-long fragment, GSAIKGAV, from the instantly recited amino acid sequence of SEQ ID NO: 2790. See SEQ ID NO: 108 in columns 1041 and 1042 of Barney *et al.* Therefore, the special technical feature of invention I does not define over the prior art. The special technical features of the inventions II-VI are delineated above which encompass various proteins, antibodies, and nucleic acid molecules, which do not share significant structure, functions, and/or immunospecificity or biological properties. A nucleic acid molecule comprises purine and pyrimidine units. A polypeptide is a single chain molecule which comprises amino acid residues. Antibodies are glycoproteins which include IgG that comprises 2 heavy and 2 light chains containing constant and variable regions, including framework regions which act as a scaffold for the 6 complementarity determining regions (CDRs) that function to bind an epitope.

4) This application contains claims directed to more than one species to be examined. If one of inventions II, IV and VI is elected, Applicants must further elect one single even numbered sequence recited therein, one single antibody to an even numbered sequence recited therein, and one single nucleic acid molecule encoding an odd numbered sequence recited therein. The various species identified above do not share significant structural features among each other.

5) Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed. 37 CFR 1.143.

6) Applicants are reminded that upon cancellation of claims to a non-elected invention, the

inventorship must be amended in compliance with 37 C.F.R 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under C.F.R 1.48(b) and by the fee required under 37 C.F.R 1.17(h).

7) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Central Fax number, (571) 273-8300, which receives transmissions 24 hours a day and 7 days a week.

8) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

9) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Jeffrey Siew, can be reached on (571) 272-0787.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

  
S. DEVI, PH.D.  
PRIMARY EXAMINER

November, 2006